



**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

(225)

FAO No. 1066 of 2004(O&M)**Reserved on: 19.02.2026****Pronounced on: 26.02.2026****Uploaded on: 27.02.2026**

Satkan Singh

...Appellant

Versus

Gulshan Singh(since Deceased) Through LRs and another

...Respondents

CORAM : HON'BLE MR. JUSTICE VIRINDER AGGARWAL**Present :** Mr. S.P.Garg, Advocate
for the appellant.Mr. Neeraj Khanna, Advocate for
Mr. Ravinder Arora, Advocate
for the respondent No.2/Insurance Company.**VIRINDER AGGARWAL, J.**

1. The present appeal under Section 173 of the Motor Vehicles Act, 1988 is directed against the award dated 03.04.2003 passed by the Motor Accident Claims Tribunal, Chandigarh, whereby the claim petition filed by the appellant seeking compensation of ₹5,00,000/- on account of the injuries sustained by him, in a motor vehicular accident dated 20.10.1998 was dismissed.

BACKGROUND FACTS

2. On 20.10.1998 he was driving his motorcycle from Kasauli towards Chandigarh. When he reached near Timber Trail, a Maruti car bearing registration No. HR-28-0089, driven by respondent No.1, allegedly came from the opposite direction at a high speed while overtaking another vehicle and struck against the motorcycle of the claimant. Due to the impact, the claimant fell down and sustained serious head injuries and fracture of his leg. He became unconscious and was immediately removed to PGI, Chandigarh, where he



remained admitted for approximately 30 days and thereafter remained confined to bed for several months. It was specifically pleaded that the accident occurred solely due to the rash and negligent driving of respondent No.1. On account of the injuries suffered, medical treatment, pain and suffering, and alleged loss of income, the claimant sought compensation to the tune of ₹5,00,000/-.

3. Upon appreciation of the evidence, the learned Tribunal noticed that the claimant, while appearing as PW1, admitted in cross-examination that an FIR had been registered against him at the instance of the car driver and that the criminal case was pending before a court at Solan. PW2, Satvinder Singh, who appeared in support of the claimant, also admitted that a criminal case had been registered against the claimant. The learned Tribunal placed considerable reliance on the FIR, wherein it was recorded that the motorcyclist had come at a fast speed and struck against the car on the driver's side. The learned Tribunal further observed that the claimant was descending from the hill side, whereas respondent No.1 was proceeding uphill. According to the learned Tribunal, while driving in hilly terrain, greater caution is required from a vehicle descending the slope. The learned Tribunal concluded that the claimant had failed to observe the necessary precautions and that the accident occurred due to his own rash and negligent driving. The learned Tribunal also disbelieved the representation allegedly made by the claimant to the Senior Superintendent of Police, Solan, observing that it was made after the 7 months of the accident and that no cogent evidence was produced to prove its dispatch or receipt. No official from the concerned office was examined to substantiate the authenticity of the said complaint. Consequently, negligence was not proved against respondent No.1, and the learned Tribunal held that the claimant was not entitled to any compensation and dismissed the petition.

**CONTENTIONS**

4. Learned counsel for the appellant has assailed the impugned award on the ground that the learned Tribunal gravely erred in treating the mere registration of FIR against the claimant as conclusive proof of negligence, ignoring the settled principle that an FIR is not substantive evidence and that civil liability cannot be determined solely on its basis. It is further submitted that during the pendency of the present appeal, the claimant has been acquitted in the criminal case arising out of the same occurrence vide judgment dated 10.04.2009 passed by the learned Judicial Magistrate Ist Class, Kasauli. An application under Order XLI Rule 27 CPC was accordingly moved for placing the said judgment on record as additional evidence. Learned counsel submits that in the criminal trial, the complainant and his wife failed to identify the driver of the motorcycle and the prosecution version did not inspire confidence. It is further argued that the claimant had suffered serious injuries and was admitted to PGI, Chandigarh on the very same day, as evidenced by Ex. P49; that the disability certificate Ex. P48 reflects 45% permanent disability; that respondent No.1 did not suffer any injury in the accident; that he did not step into the witness box to rebut the claimant's version; and that the pillion rider, who was a material eye-witness, was not permitted to make a statement before the police at the time of registration of FIR. On these premises, it is prayed that the appeal be allowed and the impugned award be set aside.

5. Per contra, learned counsel for the respondents have supported the award passed by the learned Tribunal. It is argued that the claimant himself admitted registration of FIR and pendency of criminal proceedings against him. The FIR clearly recorded that the motorcycle was being driven at a high speed and had struck the car. It is further submitted that no independent witness was examined



by the claimant and that the learned Tribunal rightly disbelieved the belated complaint allegedly made to the SSP. It is thus contended that the findings recorded by the learned Tribunal are based on proper appreciation of evidence and do not call for interference by this Court.

OBSERVATIONS AND FINDINGS

6. I have heard learned counsel for the parties and perused the record with their assistance. The finding recorded by the learned Tribunal on the issue of negligence, being based primarily on the registration of FIR against the claimant without proper appreciation of the evidence on record, calls for interference by this Court. The matter, therefore, requires independent reassessment on the basis of the material available on record.

(i) Negligence

7. Under Section 173 of the Motor Vehicles Act, this Court has full power to re-appreciate the evidence and record independent findings. The Hon'ble Supreme Court of India in ***Mangla Ram v. Oriental Insurance Co. Ltd., 2018 (5) SCC 656*** has held that negligence in motor accident claims is to be determined on the principle of preponderance of probabilities and findings in criminal proceedings are not binding upon the learned Tribunal. Likewise, in ***Bimla Devi v. Himachal Road Transport Corporation, 2009 (13) SCC 530*** it has been held that strict proof of negligence is not required in MACT proceedings and a pragmatic approach must be adopted.

Effect of Additional Evidence (Acquittal)

8. The learned Tribunal dismissed the claim petition primarily on the basis of registration and pendency of criminal proceedings against the claimant. During pendency of this appeal, the claimant has placed on record, as additional evidence, the judgment dated 10.04.2009 passed by the learned JMIC, Kasauli,



whereby he stands acquitted. This Court allows the application no. CM-1913-CII-2018 under Order XLI Rule 27 CPC as the said judgment has direct bearing on the finding of negligence recorded by the learned Tribunal. Though acquittal in a criminal case does not ipso facto establish negligence of the opposite party in civil proceedings, it certainly demolishes the foundation of the learned Tribunal's reasoning which rested entirely upon the registration of FIR and pendency of trial.

Appreciation of Evidence on Record

9. The medical record clearly establishes that the claimant suffered serious injuries and was admitted to PGI on the same day. The admission slip dated 20.10.1998 (Ex. P49) corroborates the immediate hospitalization and remained admitted till 12.11.1998. Further, the disability certificate Ex. P48 reflects that the claimant has suffered 45% permanent disability on account of non-union fracture of both bones of the right leg along with a united fracture of the right femur. Further claimants has also placed on record the receipts and bills of medicines purchased by him during the treatment as Ex. P1 To P46. Though no doctor was examined, the factum of substantial injury remains unrebutted by the respondents. Significantly, respondent No.1 did not suffer any injury. No medical record has been produced by him. Respondent No.1, despite contesting negligence, did not step into the witness box to depose on oath. In such circumstances, adverse inference under Section 114(g) of the Evidence Act is liable to be drawn.

10. It is also noteworthy that the pillion rider-Satvinder Singh (PW2), who was an eye-witness to the occurrence, was not permitted to make a statement before the police at the time of registration of FIR. The learned Tribunal failed



to independently analyze the oral and documentary evidence and instead rested its conclusion almost exclusively upon the registration of FIR.

11. Applying the principle of preponderance of probabilities and considering the totality of circumstances, this Court is of the view that the finding recorded by the Tribunal on Issue No.1 is legally unsustainable. Registration of FIR against the claimant cannot be treated as conclusive proof of negligence. On holistic re-appreciation of evidence, it is held that the accident did not occur solely on account of the claimant's negligence, as erroneously concluded by the learned Tribunal, and the reasoning adopted by the learned Tribunal stands reversed to that extent.

12. However, this Court cannot lose sight of the admitted position that the claimant was descending from the hill while respondent No.1 was driving the car uphill from the opposite direction. In hilly terrains, greater caution is expected from a vehicle coming downhill, as gravity naturally increases speed and reduces effective control. It is a settled rule of prudence in hill driving that the descending vehicle must regulate its speed, keep strict control, and allow adequate space to vehicles climbing uphill, which are comparatively at a disadvantage in terms of momentum and maneuverability. The material on record indicates that the collision occurred when both vehicles came from opposite directions on a hilly stretch. The claimant, therefore, was under a higher duty of care to maintain a moderate speed and to give sufficient clearance to the oncoming car. His failure to exercise such enhanced caution contributed to the occurrence.

13. Accordingly, while the learned Tribunal's finding exonerating respondent No.1 is set aside, this Court, upon holistic re-assessment of the evidence, holds that the accident was the result of contributing negligence of both the claimant



and respondent No.1. Respondent No.1 is held primarily negligent; however, the claimant is found to have contributed to the occurrence to the extent of 50%. The principle of contributory negligence is, therefore, attracted, and consequently, the liability of respondent No.1 shall stand confined to 50% of the total compensation as determined hereinafter.

(ii) Assessment Of Compensation

14. Since negligence has been held to be proved by this Court, the claimant becomes entitled to just compensation. The learned Tribunal did not assess the quantum of compensation in view of dismissal of the claim petition. There is no documentary evidence on record regarding the income of the claimant either before the learned Tribunal or before this Court. In such circumstances, his income is required to be assessed on notional basis. Keeping in view the nature of avocation and the prevailing wages at the relevant time (year 1998), the income of the claimant is assessed at ₹2,000/- per month, treating him as a daily wager/manual labourer.

15. The disability certificate Ex. P48 reflects 45% permanent disability on account of non-union fracture of both bones of the right leg along with united fracture of the right femur. However, for the purpose of assessing loss of earning capacity, functional disability has to be considered. Since the injuries are in respect of the right leg and the claimant was engaged in manual labour, such disability would certainly affect his earning capacity and future prospects. At the same time, the whole body functional disability cannot be equated to 45%. In the facts and circumstances, the functional disability is assessed at 40%. As per the record, the claimant was 23 years of age at the time of accident. Hence, in view of the law laid down in *National Insurance Company Limited*

v. Pranay Sethi, (2017) 16 SCC 680 and Sarla Verma v. Delhi Transport



Corporation, (2009) 6 SCC 121, the loss of future income due to permanent functional disability is computed as under:

Particulars	Amount (₹)
Loss of Monthly Income (40% Functional Disability)	800/-
Loss of Monthly Income with Future Prospects (40%)	1,120/- (800 + 320)
Loss of Annual Income	13,440/- (1,120 × 12)
Multiplier (Age 23 years)	18
Loss of Future Income	2,41,920/- (13,440 × 18)

16. Apart from loss of future earning capacity, the claimant is also entitled to just compensation under other pecuniary and non-pecuniary heads. The principles governing such assessment have been authoritatively laid down by the Hon’ble Supreme Court in *Raj Kumar v. Ajay Kumar, (2011) 1 SCC 343*, wherein it has been held that compensation in injury cases must adequately account for medical expenses, pain and suffering, loss of amenities, attendant charges, special diet, conveyance and future medical needs, depending upon the facts of each case. Thus, from the evidence on record and the medical bills (Ex. P-1 to Ex. P-46) and discharge and follow up record (Ex. P-49), the claimant remained hospitalized for one month and underwent prolonged medical treatment on account of fracture of the right leg resulting in permanent disability. The compensation awarded under these heads also deserve to be awrded in view of the nature of injuries and duration of treatment considering



the severity of suffering and lifelong impairment. Accordingly, the claimant is held entitled to the following amounts:

Particulars	Assessed Compensation (₹)
Pain and suffering	10,000/-
Medical expenses	10,000/-
Transportation	5,000/-
Attendant	5,000/-
Special diet	10,000/-
Total	₹40,000/-

(iii) Total Compensation

17. Thus, the total compensation is assessed as under:

Particulars	Amount (₹)
Loss of Future Income	₹2,41,920/-
Other Heads	₹40,000/-
Total	₹2,81,920/-

18. However, in view of the finding of 50% contributory negligence on the part of the claimant, he shall be entitled to only 50% of the aforesaid amount. Accordingly, the payable compensation comes to ₹1,40,960/-.

19. Resultantly, the appellant/claimant is held entitled to a total compensation of ₹1,40,960/-. The said amount shall carry interest at the rate of 7% per annum from the date of filing of the claim petition till its realization. It is pertinent to note that while deciding Issue No.3, the learned Tribunal recorded a finding that the Respondent no.2-Insurance Company failed to prove that respondent No.1 (driver of the offending vehicle) was not holding a valid and effective driving licence at the time of the accident. The said finding has



not been shown to be erroneous and is affirmed. Consequently, the Respondent no.2-Insurance Company shall be liable to pay the awarded compensation (₹1,40,960/-) to the claimant within a period of two month from the today, before the learned Tribunal.

20. Accordingly, the appeal is **allowed** in the aforesaid terms.

21. Since the main appeal stands decided, any pending application(s), if any, also stand disposed of.

26.02.2026

Sourav Pathania

(VIRINDER AGGARWAL)
JUDGE

(i)	Whether speaking/reasoned :	Yes/No
(ii)	Whether reportable :	Yes/No